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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,171	02/04/2004	Nicholas F. Busch	H0006870	5177

7590 08/18/2004
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EXAMINER

LEDYNH, BOT L

ART UNIT PAPER NUMBER

2862

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,171

Applicant(s)

BUSCH, NICHOLAS F.

Examiner

Bot LeDynch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 10 and 13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Bot LeDynch****Primary Examiner**

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/4/04.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention: Species I (Figures 3-4, claims 1-13) and Species II (Figure 2, claims 14-17).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the

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inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Attorney Kris Fredrick on 08/16/04 a provisional election was made without traverse to prosecute the invention of Species I, claims 1-13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

Figures 1A-1B should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any

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required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Reynolds et al. (US Pat.# 6215299). Reynolds et al. discloses the same invention as claimed: A magnetic linear displacement sensor comprising: a Hall element 20 having a sensor plate surface; and at least one magnet 22 having a lengthwise dimension along which said Hall element detects a magnetic field component orthogonal to the sensor plate surface during displacement sensing, said magnet comprising first and second pole faces (24, 36) disposed on opposite lengthwise sides thereof and having a polarization axis aligned orthogonally 46 with respect to the lengthwise dimension, said first pole face opposing said Hall element and having a non-planar surface contoured to

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generate a substantially linear orthogonal magnetic field component sensed by said Hall element during linear displacement sensing.

Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Gandel et al. (US Pat.# 6593734). Gandel et al. discloses the same invention as claimed: A magnetic linear displacement sensor comprising: a Hall element 10 having a sensor plate surface; and at least one magnet 8 having a lengthwise dimension along which said Hall element detects a magnetic field component orthogonal to the sensor plate surface during displacement sensing, said magnet comprising first and second pole faces (S, N) disposed on opposite lengthwise sides thereof and having a polarization axis aligned orthogonally SN with respect to the lengthwise dimension, said first pole face opposing said Hall element and having a non-planar surface contoured to generate a substantially linear orthogonal magnetic field component sensed by said Hall element during linear displacement sensing (see Figures 1-2, 11 and 13).

Claims 11-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Gandel et al. (US Pat.# 6593734). Gandel et al. discloses the same invention as claimed: A magnetic linear displacement sensor comprising: a Hall element 10 having a sensor plate surface; and first and second permanent magnets each having a first pole face disposed on a convex contoured lengthwise side and a second pole face disposed on an opposite lengthwise side thereof, and each having a polarization axis aligned orthogonally with respect to the lengthwise dimension, said first and second permanent magnets mutually disposed such that the contoured first pole faces are aligned in mutual opposition to form a

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sensing corridor therebetween, said Hall element plate disposed within the sensing corridor substantially centered between the contoured first pole faces (see Fig.11).

Allowable Subject Matter

Claims 10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bot LeDinh whose telephone number is 5712722231. The examiner can normally be reached on Maxiflex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, N. Le can be reached on 5712722235. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Bot LeDinh', with a long, sweeping horizontal stroke extending to the right.

BL/ 2004

Bot LeDinh, JD, PhD, DA
Primary Examiner